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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/040,172

Filing Date: October 23, 2001

Appellant(s): SCHOFIELD ET AL.

Darrin Wesley Harris
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/20/2004 appealing from the Office action mailed 7/14/04.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

However, parts of Appellant's summary are not directed to the claimed limitations. Specifically, the language:

"if the browser is associated with a particular telephone, then the communication system knows exactly to which telephone the calls for the user that logged in via the browser must be routed" and "the user can log in through the web page and identify himself. The telephone switch now knows that the user is not at his own extension but at a different extension and can route the calls to the user different extension" [Emphasis added]

is not directed to the claims' language.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. The Final office dated 07/14/2004 presented a rejection in a 35 USC 103 format; rejecting claims 17-19 as being unpatentable¹ over Wood et al. The examiner unintentionally made a typographical error by not changing "102(b)" in the rejection statement from a previous non-final to "103(a)" in the Final rejection. A clear cut-and-paste error. The examiner was clearly addressing the rejection as 103. The header clearly refers to "**Claim Rejection -- 35-USC § 103**". The examiner specified that Wood "does not specifically teach...". The examiner also provided the "obviousness statement" (it would have been obvious to one of ordinary skill in the art...). Thus, Appellant's statement about the ground of rejection being 35 U.S.C § 102(b) - anticipation by Wood- is incorrect.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,091,808

WOOD

07-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections – 35 USC § 103

¹ Not “anticipated”

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al (US PAT # 6,091,808).

Regarding claim 17, Wood teaches a telephone (Fig.1, telephone 10, also col. 3, line 23), a web browser (web browser 12, Fig. 1), a telephone switch operative to interact with the telephone and provide a control function to a user of the telephone (see Fig. 1. telephone switch 16, also col. 3, line 24), a web server (web facility 22, see col. 4, lines 1-1 1, also Fig.1) connected to the telephone switch and operative to provide the control function to the user (see col.3, lines 58-67) of the telephone via a web page provided by the web server and accessible by a web browser (see col. 4, lines 32-36).

Wood does not specifically teach that one of the web page and the web browser is "operatively associated" with a calling number of the telephone.

On one hand, the broadly claimed limitation of the web page being "operatively associated" with a calling number may simply read on the web page shown in Fig. 3 of Wood which contains button 62 labeled PERSONAL that is used for accessing personal directory of the subscriber including the subscriber's name and telephone number (see col. 6, lines 18-24). Note that when the DIAL button 75 is clicked by the subscriber, web page manager communicates a message to the call control interface 46 including the calling telephone number CN (col. 6, lines 56-62). On the other hand, since the term "associated" or "operatively associated" does not have any definite and precise meaning, it then could read on many features. For example, a web browser that is used to access the Internet may have cookies or account information about the calling party, which may include the calling party telephone.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a web page that contains calling party information, which contains a telephone number that is associated with the calling party in order to, for example, make a telephone call as taught by Wood. Having the calling telephone "associated" by the web page may also be needed for any purpose such as billing the subscriber, maintaining subscriber record, or for including in a cookie to assist in keeping a profile about the calling party. Again, having a web page "operatively associated" with a telephone number may read on many features. Claims 18-19 are rejected for the same reasons as discussed above with respect to claim 1.

(10) Response to Argument

On page 10² of the brief, Appellant argues that "A claim is anticipated only if each and every element...". As stated previously by the examiner, claims 17-19 are rejected as being unpatentable (obvious) over Wood et al (US PAT # 6,091,808). See the rejection header, the use of "unpatentable" and the "obviousness statement" in the final office action.

Also on page 10 of the brief, Appellant states that "*Wood fails to disclose and teaches away from: from (sic) the following limitations of claims 1 7-19: wherein one of the web page and the web browser is operatively associated with the calling number of the telephone*" as recited in claim 17.

On one hand, Wood (col. 6, lines 18-21) teaches that by clicking on the personal button 62, the web page manager 36 accesses a personal directory of the subscriber

² Note that the page number (page 10 of 17) is different from the facsimile-stamped page number "012"

and displays this information in a conventional scrolling window 80 within the frame 57. The personal directory contains the name and telephone number of the subscriber (calling party). Thus, it is clearly taught in Wood that the web page is associated with the calling number. Therefore, Wood does not teach away from the limitations of claims 17-19. On the other hand, the term "operatively associated" is very broad and may read on many features such as a cookie or the like as discussed above.

On pages 11-12 of the appeal brief, Appellant wishes to give the broad "operatively associated" term a lengthy, detailed and precise explanation. From Appellant's statement, the examiner understood that Appellant wishes to read the claimed limitation "operatively associated" as:

"the browser is associated with a particular telephone, then the communication system knows exactly to which telephone the calls for the user that logged in via the browser must be routed".

Appellant also wishes to read the term "operatively associated" as:

"the user can log in through the web page and identify himself. The telephone switch now knows that the user is not at his own extension but at different extension and can route the calls to the user different extension". [Emphasis added].

Note that there is absolutely no "routing", "logging in", "identifying", "different extension" "system knowing",...etc. in the claims. The argued limitations are not recited in the claims.

According to Webster's New World Dictionary, third edition, **Operative** means: capable of; accomplishing what is desired; effective, and **associate** means: to unite together, to bring into relationship. Adding the above two terms together will not result in all the limitations discussed above by Appellant. Note that the claims are absolutely silent about what "is desired", which is routing calls according to Appellant's above arguments. Appellant's attempt to read all the above-argued limitations into the claims is extremely unusual and untenable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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